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EXAMINER	
PRAKASAM, RAMYA G	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRUCE H. HANSON and MICHAEL A. WISNIEWSKI

Appeal 2009-003087
Application 10/715,516
Technology Center 3600

Decided: December 14, 2009

Before WILLIAM F. PATE, III, LINDA E. HORNER, and
STEVEN D.A. McCARTHY, *Administrative Patent Judges.*

HORNER, *Administrative Patent Judge*

DECISION ON APPEAL

STATEMENT OF THE CASE

Bruce H. Hanson and Michael A. Wisniewski (Appellants) seek our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 6, 13, and 19. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.

THE INVENTION

The Appellants' claimed invention is to a method of filling a plurality of containers for reducing a required amount of such containers in a system. Spec. 1. Claims 1[1], 6, and 14[2], reproduced below, are representative of the subject matter on appeal.

1. A method of filling containers with product, comprising:

assigning variables associated with at least one container and a number of drop points;

determining at least one threshold value based on the variables; and

distributing the product to the at least one container for each drop point based on the determined at least one threshold value.

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[1] Claims 6 and 13, at issue in this appeal, depend from independent claim 1 (withdrawn).

[2] Claim 19, at issue in this appeal, depends from independent claim 14 (withdrawn).

6. The method of claim 1, wherein the determining step includes:

determining at least one of:

a = total thickness of all product;

b = total number of all product;

Z = thickness of each product and an order of drop;

determining a best estimate of a number of containers needed if a level of fill varies between a maximum and minimum fill value of the at least one container; and

determining a best estimate of a number of containers needed if the number of product varies for the drop point.

14. A method for distributing product at a drop point, comprising the steps of:

calculating a best estimate of containers needed if a level of fill varies between a maximum fill value and a minimum fill value and a number of product varies;

calculating an expected number of the containers needed for a drop point based on the calculated best estimate;

determining a number of product required per container for the drop point based on the number of product and the expected number of containers for the drop point;

determining whether a fill depth of the containers is less than or equal to the maximum fill value of the containers; and

if the determining step of fill depth is less than or equal to the maximum fill value, creating a container fill table having a drop point designation, and an associated number of containers and product to fill the containers.

THE REJECTION

Appellants seek review of the Examiner's rejection of claims 6, 13, and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,283,304 B1 to Gottlieb, issued September 4, 2001.

ISSUE

Appellants contend the Examiner erred in rejecting claims 6, 13, and 19 because Gottlieb does not show, *inter alia*, determining a best estimate of a number of bins needed if a level of fill varies between a maximum fill value and a minimum fill value and a number of product varies for the drop point. App. Br. 6-10.

The issue presented by this appeal is:

Have Appellants shown the Examiner erred in finding that Gottlieb discloses determining a best estimate of a number of bins needed as called for in claims 6, 13, and 19?

ANALYSIS

The Examiner found that Gottlieb discloses determining a best estimate of a number of bins needed if a level of fill varies between a maximum fill value and a minimum fill value and a number of product varies for the drop point as follows:

> Gottlieb et al. '304 determine that if the level of estimated drop mail pieces is within the minimum and maximum container level, only one container is determined/or estimated to be needed. If the number of mail pieces varies and the maximum

> container level is estimated to be excessive for a particular drop point, Gottlieb et al. '304 determine if an additional container is required.

Ans. 3; see also Ans. 4 (Response to Argument).

Gottlieb discloses a mail sorting apparatus 8 including bins 18 with a sensor 22 in each bin that senses when the bin is partially full to a particular percentage (for example 60 percent) of the bin height. Col. 3, ll. 26-37; figs. 1, 2. Gottlieb discloses a method for calculating bin fullness that includes measuring the thickness of each mail piece and storing this measurement in a transporter stack memory device, delivering each mail piece to the appropriate bin, and then saving the thickness measurement for that delivered mail piece in a bin stack memory device for that particular bin to which the mail piece was delivered and deleting this same thickness measurement from the transporter stack memory device. Col. 3, l. 65 - col. 4, l. 10. Gottlieb's method then queries whether the bin is almost full (based on data received from the sensor 22 in the bin), and if the bin is almost full, then a sensor indicates to the operator that the bin should be emptied. Col. 4, ll. 10-13. If the bin is not then emptied, Gottlieb's method adds (1) the thickness measurements stored in the transporter stack memory device for all of the mail pieces yet to be delivered to that particular bin and (2) the bin almost full value, i.e., 60 percent of the bin height, to obtain a calculated thickness. Col. 4, ll. 13-23. If the calculated thickness equals a bin-full thickness, then the process determines whether alternate bins are available, and if so, it routes the mail pieces to the alternate bin. Col. 4, ll. 23-37.

Gottlieb does not appear to disclose determining an estimate of a number of bins needed if the fill level varies between a maximum and *a minimum* fill value and if the *number of product* varies for the drop point. Rather, Gottlieb appears to determine only whether the total thickness of the mail pieces to be delivered to the drop point will exceed a maximum fill value, and if so, then sends the excess mail pieces to an alternate bin, if available. In other words, Gottlieb determines when a bin is or may become full and then sends mail pieces to an alternate bin. This is not the same as determining an estimate of the number of bins needed based on varying the fill level between a maximum and minimum fill value of the bin and varying the number of product for a drop point, as called for in dependent claim 6 and independent claim 14. As such, we cannot sustain the anticipation rejection of claim 6 and its dependent claim 13, or dependent claim 19, which depends from independent claim 14.

CONCLUSION

Appellants have shown the Examiner erred in finding that Gottlieb discloses determining a best estimate of a number of bins needed as called for in claims 6, 13, and 19.

DECISION

The decision of the Examiner to reject claims 6, 13, and 19 is reversed.

REVERSED

Vsh

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